

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT, WEST VIRGINIA
- Charleston -**

UNCLE SAM'S LOANS, INC.,

Petitioner,

v.

No. 2:16-cv-12549

U.S. DEPARTMENT OF JUSTICE, Bureau of
Alcohol, Tobacco, Firearms and Explosives and
ADAM P. ROGERS, Director, Industry
Operations, Louisville Field Division

Respondent.

**PETITION OF APPEAL OF FINAL NOTICE
OF REVOCATION OF FIREARMS LICENSE**

Pursuant to the provisions of 18 U.S.C. §923(f)(3) Uncle Sam's Loans, Inc. petitions the Court to review the decision which orders the revocation of the Petitioner's Federal Firearms License. In support of this appeal the Petitioner avers:

Jurisdiction

1. Petitioner Uncle Sam's Loans, Inc, is a West Virginia corporation doing business in Man, Logan County, West Virginia. Uncle Sam's is located in the Southern District of West Virginia.
2. Petitioner holds federal firearms license number 4-55-045-02-5E-8677.
3. On a previous date the Respondent U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter ATF) provided notice of its intention to revoke the said license.
4. Thereafter, a hearing was conducted on the 13th day of September, 2016

before a hearing examiner sitting in Charleston, West Virginia. A copy of the transcript of that hearing is submitted herewith as Exhibit 1.

5. On October 24, 2016 Respondent Adam P. Rogers, Director, Industry Operations, Louisville Field Office issued a Final Notice of Denial of Application, Revocation, Suspension and/or Fine of Firearms License. A copy of that notice is submitted as Exhibit 2 to this Petition.

6. The Director's notice was forwarded to Uncle Sam's Loans, Inc. as the licensee by certified mail. Receipt of the notice is acknowledged as having occurred within a week of mailing. In that the said notice states that the revocation is subject to judicial review by statute to be filed within sixty(60) days after receipt of notice of revocation, this appeal is timely filed with this Court.

7. Jurisdiction is vested in this Court under 18U.S.C. 923(f)(3). Venue is appropriate because Petitioner Uncle Sam's principal place of business is in this judicial district.

Grounds for Appeal

The Petitioner seeks review and reversal of the license revocation based upon the following:

8. The proceedings to revoke the Petitioner's firearms license were conducted in a manner which violates Due Process of Law as guaranteed by the United States Constitution. More particularly:

- a. The proceedings are conducted in a manner which contravenes the ability of the licensee to meaningfully confront and to cross-examine the accuser.

- b. The standard of proof and the burden of proof is essentially non-existent and/or so vague as not to exist.
- c. The decision maker is a person who is employed as a director of a division of a party to the action.
- d. The allegations of other unproven and unrelated violations were offered for consideration as “evidence” in the proceedings.
- e. By allowing as “evidence” unsworn statements and written hearsay the proceedings permit, even encourage, the consideration of information which comes from those without personal knowledge or the truth of what is being offered.

9. The evidentiary offerings fail to establish the presence of wilful violations by the licensee Uncle Sam’s Loans, Inc.

Facts

The following facts are deemed relevant to the Court’s consideration:

10. Uncle Sam’s has been in business for more than 41 years.

11. The principal owner of the business is the wife of the founder Roger Muncy. Mr. Muncy operating under the corporation known as Uncle Sam’s and other related corporations which were in business in other Southern West Virginia counties has been unable to operate the business in the most recent years as a result of a stroke and other related ailments. His business has always included firearms.

12. The acts of one rogue former employee named Adkins was the subject of the allegations made against Uncle Sam’s as the grounds for revocation of the license held by Uncle Sam’s.

13. The testimony indicated that the principal owner lacked personal knowledge of the acts and omissions which the ATF relied upon to revoke Uncle Sam’s license.

14. The exhibits offered at the September 13, 2016 hearing are presented collectively herewith as Exhibit 3.

Prayer for Relief

WHEREFORE, the Petitioner prays for the following:

1. That the Court conduct a review of the proceedings below and reverse the same.
2. That the Court allow a *de novo* hearing.
3. That the Court grant such other and further relief and consider such other evidence as may be offered in support of the appeal proceedings.

/s/ James M. Cagle

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